LIFE AND CAREER

OF

SAMUEL ROSSITER BETTS

BY

GEORGINA BETTS WELLS

NEW YORK
MAURICE SLOOG
945 Madison Avenue
1934

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This book is dedicated by its author, to the direct descendents of Judge Samuel Rossiter Betts, of whom there are now living:

Six grandchildren
Fifteen great-grandchildren
Twenty-three great-great-grandchildren
and
Two great-great-great-grandchildren,

who are:

ALICE PATRICIA FAHNESTOCK
and
SHEILA SCHERMERHORN

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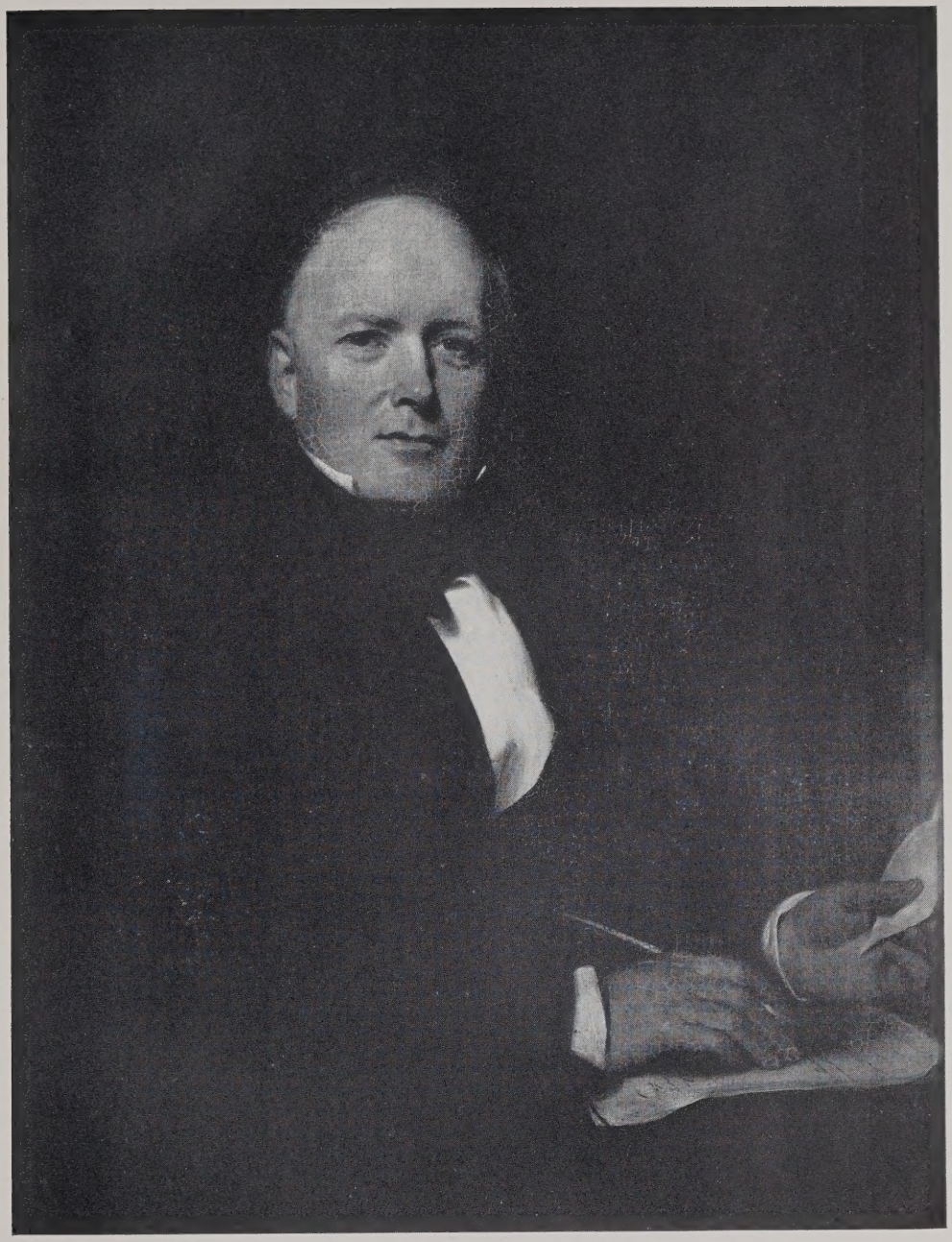

JUDGE SAMUEL ROSSITER BETTS, 1835
by Inman

THE LIFE OF SAMUEL ROSSITER BETTS

"The Past belongs to us by affectionate respect."

I

ANCESTRY

The circumstances of birth and environment mark men, a New England ancestry and education stamped its cast on Samuel Rossiter Betts, who was born at Richmond, Massachusetts, on June 8th, 1786. He was the direct descendant of THOMAS BETTS who, born in England in 1618, had the adventurous spirit to come to America when only twenty-one years old, and who became one of the founders of Guilford, Connecticut, the second colony established on Long Island Sound, the first one being New Haven. Thomas Betts later moved to Milford, then to Norwalk, where he was the honored possessor of a "Round Seat" in the church, a privilege conferred only on those worthy of esteem in the town. He died at the age of seventy, leaving a house and lands, and among other property "4 boxes of books", a rare possession in early colonial days. His "beloved wife Mary" survived him, dying at the age of one hundred.

Thos. Betts
b. 1618
d. 1688

Daniel Betts
b. 1657
d. 1757

Their son, DANIEL BETTS, was born at Guilford in 1657, and was Samuel Rossiter Betts's direct ancestor. He moved later to Wilton, where he died at the age of one hundred years and four months. He was active in building the church at Wilton, where he was "voted a seat in the corner pew"; he was also on the School Committee. "He took to wife" Deborah Taylor, and their son DANIEL BETTS (II), married Sarah Comstock, granddaughter of Thomas Hanford, the first clergyman to have a parish in the town of Norwalk, Connecticut. They were "both admitted to the church" at Wilton, and died at the respective ages of eighty-four years and seventy-three years and ten months. Thus Samuel Rossiter Betts could boast an ancestry of long-lived and pious forbears, for Daniel and Sarah Comstock Betts were his great-grandparents.

Daniel Betts (II)
b. 1699
d. 1783

Sam'l Comstock Betts
b. 1732
d. 1823

His grandfather, SAMUEL COMSTOCK BETTS, was one of the thirteen children of Daniel and Sarah Comstock Betts, and was born at Wilton in 1732 and married Mary Taylor. He left Wilton in 1767 to settle in Richmond, Massachusetts. A deed on record conveys to him 110 acres there. He added to this property and was remembered in the country as riding around his estate to oversee the work, dressed in the uniform of the Revolutionary period, for he had served as a soldier during the Revolutionary War in the Second Company of the Ninth Regiment of the Connecticut Continental Army. One

of his great grandchildren describes him as an "athletic man, over six feet tall." She also says, "He always asked God's blessing on the food and again after the meal returned thanks." He died at the age of ninety-one, in 1823, having had ten children.

Uriah Betts
b. 1761
d. 1840

His fourth son, URIAH BETTS, born 1761, was the father of Samuel Rossiter Betts and was, like his five brothers, a volunteer in the Revolutionary War, his brother Preserved being the only one wounded. On returning from service in 1783, when the Army disbanded, Uriah Betts married Sarah Rossiter at Guilford, Connecticut, and on her death in 1796, he married her sister Rebekah, who was ten years her junior.

These two wives, Sarah and Rebekah Rossiter, were descended from Edward Rossiter, who was the son of Sir Edward Rossiter of Combe, Devonshire, England, and who came to America on the ship "Mary and John" and landed in Boston on June 28, 1630. Edward Rossiter arrived with the first settlers of Boston and was one of the assistants in the first Colonial Courts of Massachusetts Bay, having been appointed to that office before he left England. He was accompanied from England by his son, Dr. Bryan Rossiter, who was admitted a freeman of Boston in 1631, moved to Dorchester that same year, and later went to Windsor, Connecticut, where he became Town Clerk in 1639. In 1651 he bought an estate and settled in Guilford, Connecticut, and at that time was

said to be the only physician in Connecticut, and to have performed the first autopsy in that State. Dr. Bryan Rossiter's son, Hon. Josiah Rossiter, was the great-grandfather of Sarah and Rebekah Rossiter, and was one of the assistant Governors of Connecticut, Judge of the New Haven County and Probate Court, and Town Clerk of Guilford from 1683 until 1706.

Uriah Betts's third wife was his cousin Lucy Betts, who died at the age of ninety-five, in 1882, having survived her husband for forty-two years. Uriah Betts lies buried in the shady graveyard at the foot of the hill at Richmond, Massachusetts, between his two wives, Sarah and Rebekah Rossiter.

Sam'l Rossiter
b. 1786
d. 1868

SAMUEL ROSSITER BETTS, born 1786, was the eldest son of Uriah Betts by his first wife Sarah Rossiter. When he was born they had only a two-year-old daughter.

This short résumé of his immediate forbears will show that Samuel Rossiter Betts was born into a heritage of high ideals, of a family who were earnest members of their church, and strong in body as in spirit.

II

LIFE

Samuel Rossiter Betts's early years were spent on his father's farm at Richmond, Massachusetts, in the beautiful Berkshire Hills, and he must have been a precocious boy, for receiving his primary education at the nearby Lenox Academy in Lenox, he was the first pupil prepared by that institution to enter any college, and matriculated for Williams College at sixteen years of age. Twenty-eight years later, in 1830, he received from that College the honorary degree of LL.D.

While a student at Williamstown, he was hospitably received in the family of Hon. Daniel Dewey, Judge of the Supreme Court of Massachusetts, and used to play with the Judge's little daughter, Caroline, fifteen years his junior. Many years later, when Caroline was eighteen years old, and an orphan, Mr. Betts returned to Williamstown and married her, on November 4th, 1816.

When Samuel R. Betts graduated from Williams College, he did not return to his home at Richmond. His step-mother, Rebekah Rossiter, who was also his aunt, and was only twelve years his senior, had children of her

own, and was a nervous invalid, spending much of her time in bed. He therefore thought it best, having received a liberal education, to start immediately his independent career. So he studied law in the City of Hudson, New York, and shortly thereafter commenced his law practice at Monticello, Sullivan County, New York. During the War of 1812, he joined the New York State troops and was appointed by Gov. Tompkins in September 1814, to the rank of Major, and attached to Gen. Haights and Johnson's Brigades, acting as Judge Advocate of the General Court Martial of the Militia of the State of New York, Third Military District, defending New York Harbor. Judge Betts was one of the original members of the Veteran Corps of Artillery, now (1934) combined with the Society of the War of 1812.

In 1815, he resigned his commission and was elected representative in Congress from Sullivan and Orange Counties, and he served in the House of Representatives in Washington from 1816 to 1818. The records of Congress having been burned during the War of 1812, complete records exist only after 1817. In "House Proceedings and Debates", at page 233, it is recorded that Samuel R. Betts "representative from New York", took his seat in the House of Representatives on December 4, 1816, and his remarks are recorded on a Bill to Amend the Act Concerning Lost Property Captured or Destroyed in Military Service during the Late War (1812). Mr. Betts

moved that the Committee rise in order to give the House time to examine the Act, the Committee's report having been laid on the table that morning; this question, on the Committee rising, was determined in the negative by a vote of 68 to 53. But proving Mr. Betts's good judgment, this Bill was again reported on December 18, 1816, together with a bill to amend the act, and a message from the President sent it back to the House for revision and amendment.

Mr. Betts declined renomination to Congress at the end of his term, and moved to Newburg, Orange County, with his young wife, and there took up the practice of the law, and was made District Attorney of Orange County. In 1823 he was appointed Circuit Judge of the Supreme Court of New York, which office he held for three years; he was also appointed one of the Vice-Chancellors of New York. When Mr. Jones was appointed Chancellor, Mr. Betts was selected from among eight Vice-Chancellors to hear those cases which the Chancellor himself was unable to hear. At that period an intimate knowledge of chancery practice was infrequent among the country lawyers, but Judge Betts's reputation as an equity lawyer stood high, and hence the distinction implied in the Chancellor's selection.

Judge Betts might have confined his activities to the seven or eight counties north of New York City, which made up his district, but he preferred to extend his sphere

of action, and by exchanging with other judges to hold court in various parts of the State. Wherever he went, he became popular. His courtesy, his quick perception and the clearness of his decisions made him a favorite with the up-State Bar.

Although Judge Betts had been in politics and had held political office as soon as he was elevated to the Bench, all his political activities ceased. This was at variance with the course followed by many other judges, but was one in which Judge Betts persisted to the end of his judicial career. So extreme was his fear of showing any judicial partiality that when he became Federal judge his own son, George Frederic Betts, who had become an attorney of note, dreaded to appear before him, saying that those who retained him in the hope of obtaining a favorable decision from Judge Betts made a mistake, as the Judge's fear of nepotism was so keen that he would, if possible, decide against his son's clients rather than in their favor.

On December 21st, 1826, President John Quincy Adams appointed Samuel Rossiter Betts United States District Judge for the Southern District of New York. He was sworn in on January 25th, 1827, at the age of forty-one years, and he continued in this office for over forty years. His term of service as District Judge is the longest of any judge in the Courts having exclusive Federal jurisdiction.

In 1867, suffering from the infirmities of age, he resigned his judgeship, although judges at that time did not receive any pension or retirement allowance, and he died in New Haven, on November 3rd, 1868, at the age of ninety-two.

III

INTIMATE MEMORIES

When Judge Betts was appointed United States Judge he left Newburg, and with his wife and their three children moved to New York City, where he and his family for the next forty years occupied a large brick house, with a high stoop and white stone steps and trimmings, at No. 16, St. Mark's Place. The rooms were large with high ceilings, but were unheated, so that during the winter, ice formed in the water pitchers over night (St. Mark's Place ran into Second Avenue, the fashionable Avenue at that period), and there was a garden in the rear, facing south towards Seventh Street. In this garden his children and grandchildren spent many happy hours. His grandson, Charles Betts Hillhouse, writes: "I remember how particular Aunt Emily was that I should not bring mud into the house,—the lovely mud from the backyard of St. Mark's Place home,—when I had been making pies in the shade of the big snowball bushes growing there. I had to come back to the house, past a dreaded iron grating, looking into the cellar where

Mary Quinn, the waitress, told me a big black negro was chained, whom she would let out unless I was a good boy. But Mary made up for this scare by giving me a lump of maple sugar!" There was always a supply of maple sugar bricks laid in in the fall for the griddle cakes which Judge Betts always had for breakfast. A piled plate of steaming cakes was placed in front of him before anyone else was served. The morning meal was hearty, consisting of hash, or eggs and bacon, muffins, toast, and always griddle cakes. Dinner was served at three o'clock as was the custom in New York at that time, and the hour at which Judge Betts returned from Court. Fried steak was served, or corned beef which was salting always in a keg in the cellar, also vegetables, mashed potatoes, pie or pudding, but no condiments were allowed in the food. The supper table was set at seven, and a light meal served of cold meat, tea, bread and butter, preserves and cake.

Judge Betts was very interested in his children's education, and if he found the girls sewing he would take their work out of their hands and replace it with a book. On a salary of $3,000. a year, (a Federal Judge of the Southern District of New York now receives $10,000. a year) he sent his two sons to Williams College and Harvard Law School, and his daughters to Mme. Chegarays's famous school for "young ladies", where all the teachers, but one, were men, Mr. John Bigelow among them. The school hours were from nine until three, with

a short recess at twelve o'clock, and the summer vacation consisted of the month of August.

Out of his small salary, paid quarterly, Judge Betts saved enough to take his family on trips in summer, often to Saratoga, and on one occasion they took a driving tour through the Berkshire Hills, which must have been quite romantic, for it ended in Fanny Betts's marriage to William Hillhouse, and also in Emily Betts, the Judge's beautiful thirteen-year-old daughter, receiving an offer of marriage which so surprised and frightened the child that she ran crying to her mother. Judge Betts was very kindly and affectionate with his family, and treated his young wife rather like a child; she always addressed him as "Judge Betts" and would sit on his knee. When little Francis Hillhouse, his grandchild, aged ten, came to visit, at St. Mark's Place wearing his Russell School military uniform, his grandfather laughed at the brass buttons and dubbed him "Little Colonel". The grandsons enjoyed watching Judge Betts shave. He was smooth shaven, with a very pink and white complexion, to the end. Charles Betts Hillhouse writes: "He used the biggest razor I ever saw". Was it really big or magnified to the little boy?

There was constant hospitality offered at St. Mark's Place, cousins coming from Connecticut to shop or to engage servants, were always welcome. However, a bachelor half-brother, Nathaniel Betts, was not so wel-

come, and at a little dance given by Judge Betts, he wore a purple coat with yellow silk linings to the tails, had his hair waved, and cut such pigeon wings, when he danced, and made himself so conspicuous that his nieces pretended that they did not know who he was.

IV

FAMILY

Two weddings took place in the parlor of the St. Mark's Place home, that of the eldest daughter, Maria, to James Whitney Metcalf, and that of the eldest granddaughter, their child, Anna Metcalf to Thomas Tileston Bryce, grandson of Mr. Thomas Tileston. It is curious to note that Judge Betts's youngest granddaughter, Georgina Betts, married Mr. Thomas Tileston's youngest grandson, Thomas Tileston Wells, in New York in 1894, at 102 Madison Avenue.

The visits of the three Hillhouse grandsons were great events. The train that brought them from New Haven had its passenger cars detached from the engine at 42nd Street and were hauled down by teams of horses to 26th Street and Madison Avenue, where the station then stood. From there passengers drove to their destination.

In 1863, at the period of the Civil War, Cooper Union, around the corner from St. Mark's Place, was an armory in full activity. These were busy times for the Federal Judges who had to make decisions on admiralty and other matters, and it was important for them to be

down-town in court every day, so Judge Betts, during the draft riots in 1863, had a military escort to conduct his carriage from his house to the Court House.

Judge Betts's home was a real refuge from the contacts of public life. At that time in New York there was no lack of amusement. He did not care for music, and said it was cacophony to him; however, Plato says: "Music tends to interfere with purity of thought", so he was upheld by the great philosopher. There were many good theatres, however. At the Winter Garden appeared Laura Keene, Boucicault, Charlotte Cushman as Lady Macbeth, the Booth brothers, and John Wilkes. In 1848 a riot took place between the adherents of the actor Forrest, an American, and the English actor, McCreedy. The militia had to be called out to quiet the disturbance at the Astor Place Opera House. This trouble was caused by race jealousy, fostered by the Irish element. At Vaux Hall Gardens, opposite Cooper Union, there was an out-of-door café, with a small theatre attached, where in 1846 David Poe and Mrs. Poe, parents of Edgar Allan Poe, acted, the wife being much the better actor of the two. Mme. Vestris and Fannie Elssler danced, 1840 to 1848, and Jenny Lind sang at Castle Garden in 1850.

Judge Betts was one of a Committee consisting of Washington Irving, John Duer and John A. King, appointed to make arrangements for a dinner to be given to Charles Dickens and "his lady" before the famous

"Boz Ball" in 1842. The ball took place on February 15th and was a great success, with tableaux vivants of groups of characters from Dickens' stories. Everybody came, to the number of 2500.

Judge Betts was also at that time invited to a dinner given by Mr. Charles A. Davis for Mr. Dickens on February 16th. Unfortunately, the protagonist was kept away by a sore throat. "Notwithstanding his absence, we had a most agreeable dinner", writes Philip Hone.

The grandchildren Samuel R. Betts and Amy Betts, children of George F. Betts, who lived at 54 East 25th Street, were always sent, early Saturday morning, to spend the day at St. Mark's Place, which was a convenient arrangement for their parents, and a great happiness for them. Judge Betts's three good, hard-working Irish servants adored the children, and the three aunts did everything to amuse and instruct them. Amy Betts Porter remembers being taken by her grandmother to Coney Island, where they ate their picnic lunch sitting on a big shawl, spread on the, then, deserted sand beach. For the grandchildren, a great treat was to ride down Broadway to P. T. Barnum's Museum. They took the horse bus at 8th Street, and saw much to interest them on the way. A. T. Stewart's retail store at 280 Broadway, was the first infringement on the private residences of Broadway. Seven lines of horse busses plied up and down, and the mud was often deep, with begging street-sweepers on

the principal crossings. In winter the omnibusses were replaced by sleighs, which accommodated 25 people, and were carpeted with straw to keep the passengers' feet warm. Barnum's Museum stood at the corner of Broadway and Ann Street where St. Paul's Building now towers. It was the first granite building in New York City, and was five stories high, made gay with a row of banners in front. Inside were wonders, a skeleton of a mermaid (made with the bones of a monkey and a fish combined), a "cherry cat" which turned out to be black—"some cherries are black"! Yet even so, everyone felt they had had their money's worth. In March, 1868, this famous Museum, with its 300,000 curios, was utterly destroyed by fire.

Another diversion was a visit to the Crystal Palace, built of glass in the form of a Maltese cross, (1852) and standing in what is now Bryant Park. It held a loan collection of industries and of arts—Sévres, tapestries and armour, and was burned in 1858 with a loss of over $2,000,000.

At 80 years of age, when the flame of life was burning low, Samuel Rossiter Betts resigned his judgeship, and in 1867 moved with his wife and unmarried daughter, Emily, to New Haven, where he could live more economically and could be near his daughter, Fanny, Mrs. William Hillhouse, and her three sons. There he occupied a house on Wall Street, between Temple and College Streets.

Even with his failing health he did not lose the technique of those years of service on the Bench. His devoted daughter, Emily, was in the habit of feeding him, and one day, when she went to lunch, he refused to eat. When she returned and reproached him, saying: "Why did you not eat your luncheon, Father?" he answered: "You did not delegate your authority, Emily."

Judge Samuel Rossiter Betts died on November 3, 1868, and was buried at Woodlawn Cemetery, beside his beloved and gifted son, Charles, who had died when only 25 years old, and by a little daughter, Ann, who had died at the age of 3. The loss of these two children was the only real sorrows of his long, happy and useful life.

V

CAREER

In November 1868, after Judge Betts's death, at the proceedings of the meeting of the bar of the United States District Court, the Hon. Erastus C. Benedict, dean and leader of the Admiralty Bar, seconding the motion of the United States District Attorney to adjourn the Court out of respect to Judge Betts's memory, said:

"Judge Samuel R. Betts came to this city from the country, where he had been eminent at the bar, and for some years Circuit judge. He came, therefore, with great familiarity with the legal questions which occupied courts of common law, but with little acquaintance with those with which an Admiralty Court must deal. When he came here there was almost no business in the Court. It did not then sit a week, where now it sits a month. Thus he had leisure to familiarize himself with the law of Admiralty, and he soon became one of the most learned judges of that branch of the law. As time went on the business of the Court increased, and his business in Admiralty became far more extended than that of any other judge that ever sat on the bench. He, more than any other man, formed the admiralty system of the United States. When he came to the Bench the British view of jurisdiction of the Admiralty prevailed. He devoted himself to that branch of

the law in the spirit which belonged to it of old, and which has since been adopted by the jurists and courts of this country, and his views have prevailed everywhere, though at first they were a novelty. His decisions were always characterized by acuteness, learning and research. If they had been carefully reported they would have built up for him a reputation, which would have been like that which the Chancery decisions gave to Chancellor Kent, or which the English Chancery decision gave to Lord Stowell. We can hardly realize in these days, when changes of judges are so frequent, what it was to have a judge upon the Bench for 40 years, as he was. He reached a great age, and gave to us all the results of a quiet, uniform and industrious life of moral and domestic virtue."

How truly these standards were felt to be held by Judge Betts, is attested by the following minutes found upon the records of the United States Court, at the time of his resignation:

"The Hon. Samuel Rossiter Betts, LL.D., having resigned his office as Judge of the United States for this District, it is fit that the records of the Court should contain an expression of the high sense which the bar of this court and his successor on the bench, have of his character and services.

Judge Betts rose early to eminence at the bar, and on the bench of the State of New York, and in December, 1826, more than forty years ago, was appointed to the bench of this court, during the Presidency of John Quincy Adams, Mr. Clay being the Secretary of State. The wisdom of their selection was soon vindicated by the industry, ability and fidelity which he displayed as a judge of this court, and of the Circuit Court. With

very slight interruptions from occasional ill health, the best power of his clear and cultivated intellect, and his careful and various learning and enlightened love of justice have been for that long judicial life devoted to the duties of his office, with an industry, ability and constancy as rare as they are honorable and useful to the community and to the nation, and which would not have been possible, had he not possessed a physical constitution of remarkable vigor. Had all the decisions made by him been published when they were made, it would now be seen that to him, more than to any other judge, is due that constitutional administration of the Admiralty law which now prevails throughout the nation, and which, when he came to the bench, was almost everywhere debatable ground; and it is but just to him to say that the views of that law which he now holds in common with all the great Admiralty Judges were the convictions of his earliest judicial investigations in this court, and have always been consistently held and administered by him."

I would like to call attention to the fact that New York in the early 19th Century became the chief and most important port in the United States. Therefore, it was before the United States District Court for the Southern District of New York that most of the important admiralty questions appeared for solution.

Unlike the common law, the American Admiralty law is not the same as English Admiralty law, but an adaptation suitable to our circumstances and molded to our practice.

The Constitution of the United States provides that the jurisdiction of the Federal courts shall extend "to all cases of admiralty and maritime jurisdiction." This very comprehensive language, together with the existence of great inland rivers and lakes that are tideless, caused the rise and fall of the tide not to limit jurisdiction, as it so largely did in England. All this made necessary the creation of a new system of jurisprudence based on the admiralty law and practice of all maritime countries.

We have the contemporary appreciative statement of Judge Blatchford on the occasion of his taking office as District Judge, as successor to Judge Betts:

"Although I have had some experience in the examination and discussion of the subjects which most frequently come under the cognizance of the tribunals of the United States, I approach the discharge of judicial duties with an unfeigned distrust, which is increased by the circumstance that I am to succeed in office one of the most eminent and able jurists who has ever presided in a court of the United States. If with diligent and earnest efforts to discharge to the best of my ability the duties which will devolve upon me, I shall keep before me as an example the unruffled patience, the unwearied industry, the genial kindness of heart, and the unbending sense of right which in so marked a degree characterized the distinguished Judge who has presided on this bench for the last forty years, I shall hope not to impair the just and high consideration which has for so long a time been accorded to the Courts of the United States within this district."

And lastly we have the following paragraph in regard to Judge Betts's early career and subsequent judicial reputation, taken from Appleton's Cyclopedia of American Biography:

"At that time (1815) the bar of the State of New York contained a somewhat notable array of eminent lawyers: Martin Van Buren, Elisha Williams, Thomas J. Oakley, George Griffen, John Wells, Ogden Hoffman, Prescott Hall and Thomas Addis Emmet were in active practice, and with all of them Mr. Betts was actively associated, and, though of a younger generation than most of them, was soon recognized as their peer in the profession.

In 1826 Mr. Betts was appointed Judge of the U. S. District Court, which office he held for forty-one years, and throughout the whole term presided with such dignity, courtesy, profundity of legal knowledge and patience of investigation that he came to be regarded as almost infallible in his decisions. To him belongs the high honor of having in a great degree formulated and codified the maritime laws of the United States. The complicated rules of salvage, general average, wages of seamen, freighting contracts, charters, insurance and prizes owe their present well-ordered system to Judge Betts. During the first twenty years of his connection with the District Court there was never an appeal from his decisions, and his opinions in his own Court on maritime questions, and in the Circuit Court on patents, have been uniformly upheld. . . .

He received the degree of LL.D. from Williams in 1830. In 1838 he published a standard work on 'Admiralty Practice'."

VI

CAREER

In 1830, when Judge Samuel Rossiter Betts was forty-five years of age, his younger half-brother, Frederic Betts, who was the most financially prosperous member of the family, ordered portraits painted of Judge Betts and of his wife, by the well-known artist, Henry Inman. These portraits were very successful, and at the death of Frederic Betts, they became the property of his younger son, Wyllis, a bachelor, who when he died willed them to Samuel Rossiter Betts, son of George Frederic Betts, Judge Betts's only surviving son. Thus these portraits passed back to Judge Betts's direct descendants.

In the year 1908, Samuel Rossiter Betts, grandson of Judge Betts, had a copy made by Charles Noel Flagg, of Inman's portrait of Judge Betts, and presented it to the United States District Court, where it now hangs in one of the Court Rooms in the Post Office Building, New York. The Evening Sun of November 1st, 1912, says:

"The presentation of the portrait of the late Judge Samuel Rossister Betts was presided over by Senior Judge George C.

CAROLINE ABIGAIL BETTS, 1835
by Inman

Holt, Judge Learned Hand and Judge Charles M. Hough, and was attended by men whose names stand high in the legal world. Many of these had been associated with the jurist in whose honor they had assembled. Notable among these were Joseph H. Choate, Circuit Judge Henry G. Ward and District Judge Chatfield of Brooklyn; United States Commissioners John A. Shields and Alexander Gilchrist, Jr. There was also a goodly sprinkling of Federal law experts, among them Everett P. Wheeler and Charles C. Burlingham.

The most picturesque feature of the ceremony was the unveiling of the portrait by Georgina Wells, (now Mrs. Cortland Schuyler Van Rensselaer), the ten-year-old niece of the donor. Never was better allegory presented in real life, typifying the present and the past, than when the golden-haired little maid, unabashed by the presence of so many distinguished men, drew aside the folds of the American flag that concealed the likeness of the stern old jurist, her great-grandfather."

Mr. Samuel R. Betts, on presenting the portrait, gave a résumé of his grandfather's life, and said:

"Noteworthy incidents of Judge Betts's career on the bench are that he first definitely formulated the rules of the District Court, and in 1838 published a summary of Practice in Admiralty, including the Rules as they then existed. This was one of the first books on Admiralty practice, written and published in this country. (Pub. Halstead & Voorhees, N. Y. 1838.) During his term as Judge, the second United States Bankruptcy Act was passed, and was in force from 1842 to 1843. This law, during the short period before it was repealed by Congress, was frequently before Judge Betts for construc-

tion, and as New York was then as now the commercial centre of the country, Judge Betts's rulings were quoted and generally followed throughout the country.

Judge Betts's term of office embraced the Civil War period, and the mass of litigation then arising involved new and complex and important questions for the Admiralty courts of this country. It is worthy of note that this period, from 1861 until his resignation in 1867, was from the 75th to the 81st year of his age, he having been appointed by President John Quincy Adams in 1826 as Judge of the United States District Court for this District, and continuing in that office for over 40 years until at the age of nearly eighty-one, he resigned and was succeeded by Judge Blatchford, in May 1867. His term of office as District Judge is the longest of any Judge in the Courts having exclusive Federal jurisdiction.

It may be permitted me on this occasion to say that it is a source of gratification and interest to the family of Judge Betts, and may be to others present, to recall that for eighty-six years, from 1826 to the present time, those of his own name and immediate family have been closely connected with the United States Courts for this District, both officially and as members of the bar. These names include his younger brother, Frederic J. Betts, his sons, Charles D. Betts and George F. Betts, (the latter for 25 years Clerk of this Court), Frederic H. Betts (for many years my senior partner) and his brother, Wyllys Betts, and his son, Frederic Holbrook Betts. And I consider it my good fortune that by choice and opportunity, through 35 years of active practice, I have been brought almost exclusively into the United States Court in this and other districts, and that I have held commissions under the seal of this Court during the entire period. This experience qualifies me to tes-

tify to the uniform courtesy, patience, diligence and ability of the Judges of the United States Courts. These Courts and Judges are the firm foundation on which is based the structure of our government, of a free and united people, by themselves, through forms of law, under a written Constitution. It is, therefore, not only as a memorial of my grandfather, but as a testimonial of the greatest respect and regard for the United States Courts and Judges, that I desire to present to the District Court this portrait."

Judge George C. Holt, who accepted the gift in the name of the Court, was one of the eight judges for the Southern District of New York, who are now doing the work which in his lifetime, Judge Betts did single-handed. Judge Holt introduced Mr. Joseph Choate with the following words:

"There seemed to be a peculiar propriety in requesting Mr. Choate to speak on this occasion, because he is one of the very few members of the bar now living who practiced before Judge Betts. I take great pleasure in introducing Mr. Choate."

Mr. Choate's address:

"If the Court please, I regard it as a somewhat equivocal compliment to be asked to come and say a few words today, on the ground that I am about the only man that could be found alive that had practiced for many years before Judge Betts. It is true, I was very frequently before him for about 10 years before his final retirement. He sat for many years in a most squalid and miserable house in Chambers Street, which, I believe, had, before the United States took possession of it, been

occupied by the lamented Burton as a comic theatre where he had entertained the people of New York for many years. The bar of that day was small in numbers, but great in power, in proportion to the population and in proportion to the business that was done. Who were those men in jet black coats, many of them in dress suits, at half-past ten o'clock in the morning? Why, there were such men as Charles O'Connor and Daniel Lord, and William M. Evarts and James T. Brady and Francis B. Cutting, Thomas A. Emmet and Thomas L. Wells, all frequently appearing before him, with a score of others that I might name nearly approximating any of them in dignity of character and power.

This Court was presided over by a dignified, learned, upright, courteous and patient judge. And when I have enumerated those qualities, it seems to me that they do go to make the perfect judge; great character, great dignity and great ambition. He was pre-eminently qualified for the judicial office, not entirely by strict adherence to practice in the office or in the courts; but he had been a member of Congress for many years; he had been a State prosecuting attorney; he had been a United States prosecuting attorney; he had been a state judge, and was in every way qualified to take up the great questions that would naturally and necessarily come before him.

Admiralty was a terror in this country to the great bulk of the profession. I think it continued so, both on the bench and at the bar, and even in the Supreme Court at Washington until that court was cut off from any further hand in admiralty business.

I remember my first case in the Supreme Court of the United States, in the Fall of 1866, was on an appeal from an admiralty judgment rendered by Judge Betts, in which we had been the

successful party, and the judgment of Judge Betts was affirmed in the appeal.

And after admiralty had occupied Judge Bett's attention for a number of years, came the bankruptcy business, and then, as has been said, when the Civil War broke out, the far greater business of prize cases, and I venture to say that in all these three departments of law, in admiralty, in bankruptcy, and in prize, he was quite equal to any of the English judges who at the same period were administering law on the same subjects, and he practically laid the foundations of the American law as it exists today on those subjects.

And now, if it please the Court, we are here to receive the portrait, for which the bar is very grateful to the family of Judge Betts, and to express the hope that the independent judiciary, of which he was such a noble example, may never be disturbed. I hope that many generations will pass before we have any other judges except those who conform to the standard of Judge Betts so splendidly maintained."

Judge Hough then gave the following address:

"Gentlemen: I may be permitted to speak your honors, however briefly, as one more or less familiar with and interested in the admiralty side of the court.

It was on January 25, 1827, that Judge Betts caused to be recorded in the minutes of this court his commission as District Judge, signed by John Quincy Adams and Henry Clay. Since his subsequent career gave to the formal words of the commission, concerning the special trust and confidence reposed in the wisdom, uprightness and learning of the new judge, a real meaning, it is appropriate, after thanking the members

of Judge Betts's family for this gift, to recall to those who practiced on the admiralty side, something of the official life and labors of the man who presided here for almost one-third of the one hundred and twenty-three years that have elapsed since the establishment of this court.

Known as a man of ripe experience for his years, Judge Betts nevertheless succeeded not only in the administration, but in the development of a court in which, as we have been reminded this morning, there was almost no business.

Prior to 1834, it was not thought necessary to record in what we call dockets, the institution of a suit. It was noted only in the court minutes. And libels, when propounded, were actually produced in court and leave there obtained to issue process. After Judge Betts had been on the bench six years, or less, a court docket was opened, and for the first year the whole number of litigations begun was no more than 78; and six years later the number had reached only to 176, out of which the total number of trials ever had was but 65, and of them I have noted one only extending for more than a portion of a day. But Judge Betts was not concerned so much with the character of growing business as with using what he had in laying the foundation of admiralty law in the United States, a process fraught with difficulties and jealousies hardly to be understood by us moderns, who take for granted propositions over which he, more than any other man of his time, labored that he might convince the profession of their propriety.

The opinions of the judges, not only in this but in almost all the courts, were, until quite recent times, not filed. They were not court records. They remained the private property of their writers. And Judge Betts permitted to be published comparatively few of his judgments, apparently preferring to

express his views in the text book on admiralty, published in 1838. I think the reports known as Blatchford & Howland's, Olcott's, and Abbott's Admiralty, present with quite sufficient fullness the nature of the work that he did and how he did it. I may be pardoned for reminding even those of us who are in the heat and fullness of practice of these now comparatively little used reports. An examination of them is instructive. In the earliest, Blatchford & Howland, out of 51 reported cases, 29 related to seamen, their wages, duties and injuries.

By 1845 the business before the Court had greatly increased, and of the 60 cases reported in Olcott, but 18 related to seamen, and it is not too much to say that on this familiar ground of the rights, duties and liability of seamen, Judge Betts has laid down substantially every proposition that characterizes the admiralty of today in respect to these wards of the court. A majority of the other reported cases are pioneer work. It was matter of argument, and never made matter of decision, that a claim for salvage might be promoted in admiralty, and that a tort committed even on local waters, if it apparently conferred a right of action *in rem,* was cognizable in admiralty; that torts were within admiralty jurisdiction when committed in the ebb and flow of the tide; that salvage was within the jurisdiction of admiralty; that a collision gave rise to a maritime cause of action even though it occurred in a slip or between piers; that freight on cargo was recoverable in admiralty, even when the custody of the cargo had changed; that general average was within the jurisdiction of the court.

This list might be made much longer and more wearisome, and it all has a perfectly modern sound.

Then there were other branches of the law touched upon that seem curiously antique. In a successive line of decisions

Judge Betts asserted apparently as a new proposition, that a higher degree of responsibility is cast upon a steamer than upon a sailing vessel, so that, as a rule of law, a steamship is bound to keep out of a sailing vessel's way.

By 1847 he formulated a rule of precedence going through Hell Gate, and at that time, if not before, he annunciated the rules.

The Civil War laid new and additional duties upon a man who was then in his 74th year, and how well he sustained his part in prize causes, reported in Blatchford's Prize Cases, is a matter of record.

Physical weakness impaired his usefulness in or about 1865 and he retired, after having served, as by the records above mentioned, for forty years and four months.

The entry in the minutes of this court, which Mr. Betts has read, was moved by Mr. Daniel Lord, and the proceedings at the bar meeting, held on Judge Betts's decease, a year and a half later, were read by Mr. Erastus C. Benedict, an admirable name in the admiralty, and participated in, as may be seen in an appendix to Benedict's Reports, by every man then known to be well and largely connected with the administration of the law in the court of the United States in this District. The appreciations then made by the men most competent, in his own generation, to speak on the subject, and opinions hidden away in the dusty records of this court, and in reports now little read, form the most fit memorial of the man whose portrait we now look upon, and we, who tread in security the paths that he so bravely helped to blaze, welcome this opportunity of reviving his memory, and regard, and shall regard, this portrait as a constant and permanent reminder of one whom we may proudly regard as our ancestor in the law."

"The man who does not feel himself to be linked in the great chain to transmit life and being, intellectual and moral existence, from his ancestors to his posterity, does not justly appreciate the relations which belong to him."

DANIEL WEBSTER.